

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE: Robert Cunningham )  
Ward 072, Block 047, Parcel 00024 ) Shelby County  
Residential Property )  
Tax Year 2005 )

## INITIAL DECISION AND ORDER

## Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$8,200	\$36,900	\$45,100	\$11,275

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on February 27, 2007 in Memphis, Tennessee. In attendance at the hearing were Robert Cunningham, the appellant, and Shelby County Property Assessor's representative Jonathan Jackson.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 53 year old rental home located at 2147 Clifton in Memphis. The taxpayer purchased subject property at a HUD auction in 2004 for \$15,000.

The taxpayer contended that subject property should be valued at \$22,000. In support of this position, the taxpayer testified that prior to his purchase subject property had been on the market for two years at \$22,000 and for four years at \$27,000. According to Mr. Cunningham, subject property had been vandalized when he purchased it and remains in poor condition as evidenced by the lack of a backdoor or carpet. Mr. Cunningham also noted that the hearing officer for the Shelby County Board of Equalization had recommended a value of \$30,000 before the full board adopted the current appraisal of \$45,100.

The assessor contended that subject property should be valued at \$45,100. In support of this position, a spreadsheet summarizing three comparable sales was introduced into evidence. Mr. Jackson maintained that the comparables would normally support a value indication of \$56,300. Mr. Jackson asserted that the condition of subject property has been considered by appraising subject property at a value of only \$45,100.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."



After having reviewed all the evidence in the case, the administrative judge finds that the subject property should remain valued at \$45,100 based upon the presumption of correctness attaching to the decision of the Shelby County Board of Equalization.

Since the taxpayer is appealing from the determination of the Shelby County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

Respectfully, the administrative judge finds that the taxpayer did not introduce any comparable sales or repair estimates into evidence. Absent such evidence, the administrative judge finds that any loss in value due to the physical condition of subject property cannot be quantified. Moreover, Mr. Cunningham testified that his tenant maintains the property and chose not to replace the backdoor.

The administrative judge finds that Mr. Cunningham's testimony concerning the marketing of subject property constitutes unreliable hearsay. For example, no evidence was introduced to establish whether subject property was listed with a realtor and what the actual list price was at any given point in time.

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$8,200	\$36,900	\$45,100	\$11,275

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:


1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or



2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 8th day of March, 2007.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Robert Cunningham  
Tameaka Stanton-Riley, Appeals Manager